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## 4.0 PUBLIC AND AGENCY INVOLVEMENT

Since the early 1990s, one of the most dramatic changes in the planning of transportation projects has been the increased focus on effective public involvement—engaging the public in the transportation decision-making process in a meaningful way. Many state DOTs are discovering that a successful highway design process includes early and continuous public involvement.

A May-June 2002 article in the Transportation Research Board's *TR News* opined that:

- “Public involvement is difficult to do well—but good public involvement usually always pays off, and bad public involvement invariably backfires.
- Public involvement is not more difficult than it used to be—but the goals have been raised.”

The purpose of this chapter is to provide guidance on public involvement activities. This chapter describes effective means of public and other agency involvement as required by 23 CFR 771, Environmental Impact and Related Procedures; 40 CFR 1500–1508, Regulations for Implementing the Procedural Provisions of NEPA; Section 6002 of the SAFETEA-LU; 23 USC 128, Public Hearings; and the Utah Administrative Code. These procedures can be scaled to fit the complexity or impacts of the program or project being considered and apply to all projects administered by UDOT. Always check with UDOT Environmental Services for the most recent policies and procedures.

### 4.1 Background

UDOT and FHWA considers public involvement to be a chief element of the project development process and actively supports proactive public involvement at all stages of project planning and development. Public involvement is more than just a meeting or hearing. For it to be effective, a meaningful open exchange of information and ideas between the public and transportation decision-makers must occur.

FHWA guidance suggests six key elements in the planning for and success of public involvement for transportation projects:

1. Clearly defined purpose and objectives for initiating a public dialogue on transportation projects.
2. Identification of the affected public and other stakeholder groups.
3. Identification of techniques for engaging the public in the process.
4. Notification procedures that effectively target affected groups.

5. Education and assistance techniques that result in an accurate and full public understanding of the transportation problem, potential solutions, and obstacles and opportunities within various solutions to the problem.
6. Follow-through by public agencies demonstrating that decision-makers seriously considered public input.

## **4.2 Public Involvement Regulations and Requirements**

### **A. National Environmental Policy Act (NEPA)**

Sections 1500–1508 of 40 CFR require FHWA and UDOT to invite the public to review and comment on the project and/or environmental document during the scoping and draft document phases and at public hearings.

### **B. FHWA**

Section 771.111(h) of 23 CFR requires that each state must have FHWA-approved procedures for carrying out public involvement and public hearings on projects and that state public involvement/public hearing procedures must include the following elements:

- Coordination of public involvement activities and public hearings through the entire NEPA process.
- Early and continuing opportunities during project development for the public to be involved in identifying social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.
- One or more public hearings or the opportunity for hearing(s) to be held by the state highway agency at a convenient time and place for any federal-aid project that requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roads or of the facility being improved, has a substantial adverse impact on abutting property, or otherwise has a significant social, economic, environmental, or other effect, or for which FHWA determines that a public hearing is in the public interest.
- Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. This notice will explain whether and where explanatory information is available. The notice will also provide information required to comply with public involvement requirements of other laws, executive orders, and regulations.

### **C. SAFETEA-LU**

[Section 6002 of SAFETEA-LU](#), “Efficient Environmental Reviews for Project Decision-Making,” prescribed an environmental review process for highway, public transportation capital, and multimodal projects. This process explains how highway projects interact with joint-lead, cooperating, and participating agencies. It also requires that agencies and the public have the opportunity to be involved in the early stages of a project, such as the purpose and need and alternative development stages. Section 6002 also describes coordination plans and negotiated schedules. [MAP-21](#) includes additional streamlining and efficiency measures to the environmental review process.

### **D. National Historic Preservation Act (NHPA)**

The NHPA requires FHWA or its designee (in this case, UDOT) to identify the appropriate parties that need to be involved in identifying potential effects to historic resources from proposed transportation projects and requires involvement with such parties. This consultation can take place with a variety of participants including the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer(s) (THPO), Native American tribal representatives, agency archaeologists, local historic preservation organizations, representatives of local governments, representatives of certified local governments, archaeological/historical interest groups, professional organizations, and the general public. See Chapter 5, Project Impact Analyses, for more information.

### **E. UDOT Procedures**

[Utah Administrative Code R930-2](#) describes UDOT’s public hearing requirements including the stages of the project when public hearings should be held, the different hearing formats, how notices of hearings are published, and how hearing transcripts are developed. These rules were developed to conform to 23 CFR 771.111(h) for federal-aid projects and also apply to state-funded projects.

### **F. UDOT Region Public Involvement Managers and Community Relations Office**

UDOT is committed to partnering with members of the public and other stakeholders in meeting our state’s transportation needs. To accomplish this, UDOT employs dedicated, public-minded professionals to facilitate this process. With assistance from UDOT’s Community Relations Office, the Region Public Involvement Managers help keep the public informed and ensure that citizens are effectively involved.

Representatives from UDOT’s Community Relations Office communicate project-specific information and Department issues to representatives of the media. This office assists

and provides guidance to the Region Public Information Managers, prepares press releases, and responds to questions from the general public.

## **4.3 Public Involvement Strategies**

### **A. Objectives of Public Involvement**

In order for successful decision-making to occur, all affected stakeholders must have adequate information about proposed projects and the opportunity to provide input at all stages of planning and project development. The project development process includes scoping, environmental studies, design, construction, and maintenance. An effective public involvement process encourages an open exchange of information and ideas between the public and transportation decision-makers. Effective public involvement results in early and continuous stakeholder coordination, an open exchange of technical information and ideas, collaborative input on alternatives and mitigation options, and an adequate number of public hearings and information meetings.

The objectives of the public involvement process are to provide information in a timely manner, to provide opportunities to receive public input, and to ensure public access to transportation decisions. Project managers should follow these steps to achieve effective public involvement:

1. Ensure an active role for the public in the development of transportation plans, programs, and projects from the early stages of planning through the design process and into construction.
2. Identify and involve the affected stakeholders, including those who have been traditionally under-served by transportation systems in the past.
3. Use education and assistance techniques that support an accurate public understanding of transportation needs, possible solutions, and the benefits and impacts of those solutions.
4. Give the public an opportunity to review environmental documentation, technical studies, and project information. Encourage an open exchange of information and ideas between the public and transportation decision-makers.
5. Solicit public comments and ideas and identify impacts and circumstances that might not have been known or anticipated by public agencies.
6. Customize the public involvement and education techniques for each project to meet the needs of affected stakeholders.

## B. Public Involvement Plans (PI Plans)

The [Public Involvement Plan](#) (PI Plan) is a written document that helps organize and guide the public involvement effort through the project development process.

Develop the PI Plan early in the project development process. Project stakeholders should be involved in refining the PI Plan. The PI Plan defines when to engage stakeholders and what tools are best to encourage involvement. The variety or combination of activities and approaches will be determined by the size and complexity of the plan or project and the number of stakeholders involved. Develop a written PI Plan for major UDOT plans or projects. For a minor project, public involvement activities may still be needed, but a written PI Plan may not be necessary.

### 1. Contents of the PI Plan

The written PI Plan should answer the traditional questions of “who, what, where, when, why, and how” by discussing the following in a clear, concise manner:

- **Project Scope.** The introduction should *briefly* describe the scope of the project. It should explain “why” UDOT is undertaking this project/plan and why public involvement is essential.
- **Team Leadership.** The PI Plan should be clear about “who” is involved in the project, their specific duties and responsibilities, and how the project and the public involvement will be managed.
- **Decision-making Structure.** It is important that the structure for decision-making in projects be established and shared with the public. Stakeholders should understand that their role might be advisory. Engineering factors and budget could be final determining factors.
- **PI Plan Activities.** The PI Plan should spell out “what” activities or tools and techniques will be undertaken during each step in the project development process.
- **Responsible Staff.** For each activity, the PI Plan should identify the staff responsible for developing and carrying out the activity.
- **Timeline.** The PI Plan should explain “when” all activities will take place as well as who is responsible for each item and how activities will be documented. The timeline for the PI Plan should be developed and integrated into the timeline for the project development process.
- **Locations.** The PI Plan should explain “where” meetings will be held. The plan must consider the requirements of the [Americans with Disabilities Act \(ADA\)](#).
- **Implementation.** The PI Plan should include essential details concerning “how” each action will take place and will engage people with special needs and environmental justice (EJ) populations.

## 2. Typical PI Plan Activities

The PI Plan is likely to contain a wide variety of activities for each step of the process. Following is a brief description of some of the activities that need to be included in most PI Plans:

- **Stakeholder List.** This list should identify all parties interested in and affected by a transportation project, program, or plan. In addition to providing key information about involvement by various groups, individuals, and businesses, the list serves as the basis for mailings and other notifications.
- **Media Relations.** It is very important to build partnerships with the local media to help ensure that the message is being accurately provided and a wide audience is being reached.
- **Brochures and Fact Sheets.** These must be written in clear, concise language so that laypersons can understand them. A variety of materials might be needed depending on the target audiences.
- **Hearings, Meetings, Interviews, and Presentations.** The type and purpose of each activity must be clear, and ADA and EJ considerations must be taken into account. The project timeline should explain the number and types of activities and who will organize each activity.
- **Hotlines, Websites, and Newsletters.** If any of these items are used, the type and purpose of each item should be identified as well as who is responsible for creating and updating each item.
- **Displays.** Clarity is a key consideration—the information must be easily absorbed by audiences who are not intimately familiar with transportation issues.

For each component, be sure to describe the actions and approaches needed to accomplish it. Define who is responsible for developing each activity or document. Also, define how, when, and where each component will be completed by developing a timeline and task list for all people involved in the project.

## 3. Additional Considerations

Consider the following additional issues when developing the PI Plan:

- **Strategy.** What overall approach to a PI Plan makes sense? What combination of approaches makes sense? Will only one approach be enough? What legal requirements or processes must be met?
- **Magnitude.** How much is enough? Determine the appropriate program magnitude. Develop an efficient PI Plan process. Keep it simple. Keep the public informed regarding the process—how and when they will be involved.

- **Budget.** The time needed to prepare for, advertise, and attend meetings, maintain mailing lists, document meetings, answer phone requests, and respond to questions can be great. Be aware that using consultants to perform these tasks can be expensive. However, if staff resources are limited, consultant assistance might be needed. Be sure to establish a budget before beginning the public involvement process.

The most successful PI Plans incorporate stakeholders early in the process and keep them involved at every step.

## 4.4 Agency Involvement and Responsibilities

Effective interagency coordination is the key to achieving environmentally responsible transportation decisions. The CEQ regulations introduced the concepts of *lead agency* and *cooperating agency* to help streamline the environmental process; eliminate duplication in federal, state, and local procedures; and integrate NEPA requirements with other federal environmental review and consultation requirements.

SAFETEA-LU further defined the role of agencies involved with a transportation project receiving federal funds. The [SAFETEA-LU Environmental Review Process Final Guidance](#), issued November 15, 2006, defines the roles of lead agencies, participating agencies, and cooperating agencies. The purpose of the environmental streamlining provisions are to coordinate federal agency involvement in major highway projects under the NEPA process and to address concerns relating to delays in implementing projects, unnecessary duplication of effort, and added costs often associated with the conventional process for reviewing and approving surface transportation projects.

### A. Lead/Co-lead Agencies

At the federal level, the *lead agency* is usually the federal agency responsible for preparing the appropriate environmental document for a particular federal action, such as a federally funded highway project for which FHWA would be the lead agency. For federal projects where UDOT has assumed the FHWA NEPA responsibilities per the provisions of the 327 NEPA Assignment MOU, UDOT will function as the lead agency. Similarly, at the state level where no federal funds are involved, the lead agency is usually the state agency responsible for preparing the environmental document for the proposed state-level action. In either case, other federal, state, or local agencies may, under the proper circumstances, act as joint lead agencies to prepare an environmental document.

The lead agencies must perform the functions that they have traditionally performed in preparing an environmental study in accordance with 23 CFR 771 and 40 CFR 1500–1508. In addition, the lead agencies now must identify and involve participating agencies, develop coordination plans, provide opportunities for public and participating agency

involvement in defining the purpose and need and determining the range of alternatives, and collaborate with participating agencies in determining methodologies and the level of detail for the analysis of alternatives. In addition, lead agencies must provide increased oversight in managing the process and resolving issues.

## **B. Cooperating Agencies**

A *cooperating agency* is any federal, state, or local agency, other than a lead agency, that has special expertise or regulatory authority with respect to any environmental impact and that is requested by a lead agency to be a cooperating agency. A cooperating agency has the responsibility to assist the lead agency by participating in the NEPA process at the earliest possible time, by participating in the scoping process, and by developing information and preparing environmental analyses for areas in which the cooperating agency has special expertise.

If a federal or state agency has or is expected to have permit approval or concurrence authority on an action, ask the agency to be a cooperating agency for an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). Solicit the views of cooperating agencies and coordinate with them throughout all stages of preparing the environmental document. Agencies such as the Utah Department of Natural Resources, the U.S. Army Corps of Engineers (USACE), the U.S. Environmental Protection Agency (EPA), and the U.S. Fish and Wildlife Service could serve as cooperating agencies.

## **C. Participating Agencies**

Section 6002 of SAFETEA-LU established procedures that must be followed when preparing an EIS for a highway or transit project. The law updates the environmental review process to include a category of *participating agencies* that have an interest in the project. The roles and responsibilities of participating agencies include but are not limited to:

- Participating in the NEPA process starting at the earliest possible time, especially with regard to developing the purpose and need statement, range of alternatives, methodologies, and the level of detail for the analysis of alternatives.
- Identifying, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. Participating agencies also can participate in the issue resolution process.
- Providing meaningful and timely input on unresolved issues.
- Participating in the scoping process.

Accepting the designation as a participating agency does not indicate support of the project and does not provide an agency with increased oversight or approval authority beyond its statutory limits (if any).

## 4.5 Project-Level Procedures

### A. Public Hearing Requirements

A public hearing or an opportunity for a public hearing will be provided if the proposed project would meet any of the following criteria:

- Involve the construction of a new road on a new location.
- Have a substantial adverse impact on abutting property.
- Have a substantially different social, economic, or environmental effect than the existing facility.
- Require a significant amount of right-of-way.
- Substantially change the layout or function of the facility being improved or of connecting roads.
- UDOT determines that a public hearing is in the public interest.

If the project is a documented categorical exclusion, EA or EIS, UDOT will disclose to the public and agencies as part of initial agency outreach and public involvement procedures, including any notice of intent or scoping meeting notice and public involvement during the scoping process, the following disclosure:

*The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being or have been carried-out by UDOT pursuant to 23 USC 327 and a Memorandum of Understanding dated January 17, 2017, and executed by FHWA and UDOT.*

#### 1. Authorization

The project team will coordinate the arrangements for public hearings and the publication of legal notices. The UDOT Project Manager or Environmental Lead is authorized to sign any notice as an official representative of UDOT.

#### 2. Public Hearing Format

Public hearings can be conducted using either of two formats. One is a formal meeting format where the public gathers as an audience and the meeting is conducted by a moderator. The other format is an open-forum hearing where the public is allowed to review information in an open-house-type setting and provisions are made to record any oral comments people want to give. A combination of these formats can also be used. The decision about what format(s) will be used is made by the UDOT Project Manager in coordination with Central Environmental.

### **3. Notices for Public Hearings**

For each public hearing, the UDOT Environmental Lead or designee will arrange for at least two notices to be published in statewide and local newspapers. The first notice is published at least 15 days before the hearing. The second notice is published five (5) to 10 days before the hearing.

Notices will contain the date, time, and place of the public hearing and will identify the subject of the proposed project or hearing in a clear and easily understood manner. The location of additional information and the phone number of a UDOT representative will be included in the notice. Also, where appropriate, notices will explain how people who are unable to attend the public hearing can submit their comments. Consider special-needs groups when advertising all public hearings. The notice will also describe the length of the comment period and specifically identify the last date when comments will be accepted. The notice does not need to be published in the legal advertisement section of the newspaper.

### **4. Opportunities for Public Hearings**

#### **a. Notices of Opportunities for Public Hearings**

For each opportunity for a public hearing, the UDOT Environmental Lead or designee will arrange for at least two notices to be published in statewide and local newspapers. The first notice is published at least 15 days before a request for public hearing must be received. The second notice is published at least 7 days before a request for public hearing must be received. Notices will identify the proposed project or subject in a clear and easily understood manner. Notices will include the location of the hearing and the address where the request for public hearing should be sent or delivered. The deadlines stated in the notice will be postmark deadlines.

#### **b. Requests for Public Hearings**

When an opportunity for a public hearing is advertised, any person with a social, economic, or environmental interest in the project can request that a public hearing be held, provided the request is received by the designated contact according to the published instructions and before the published deadline.

If the project team has questions about a request for a public hearing, project team members should contact the requesting party or parties to determine their interest in the project. If, as a result of this contact, the project team determines that a public hearing is not necessary or that the requesting party might better satisfy their needs in another way, the requesting party can ask that their request be withdrawn. If the request is withdrawn, the project team can cancel the hearing. However, the project team might decide to proceed with the hearing if the hearing has already been publicized or if the project team

believes that the goals of the Department would be better served by holding the hearing. All decisions and their supporting information will be included in the project record.

## **5. Written Notice**

The UDOT Environmental Lead or designee will notify, in writing, the following stakeholders of a public hearing or an opportunity for a public hearing: all county commissioners, mayors, city council members, legislators, multi-county planning districts, and federal, state, and local government offices with an interest in the proposed project.

## **6. Other Publicity**

With regard to public hearings and opportunities, the project team can use additional methods of publicity, including the following:

- News releases
- Display advertisements
- Radio advertisements
- Handbills
- Blanket mailings by zip code or postal carrier route
- School distributions
- Employer distributions
- Church announcements
- UDOT websites, email lists, or social media accounts

## **7. Hearing Arrangements**

All official public hearings will be conducted at a time and place that is generally convenient to the public in the area of the project. The project budget will pay for auditorium rental fees, equipment costs, salaries of people who need to attend the hearings, and other necessary costs. All hearings, whether formal or informal, will include a court reporter to record the comments of the attendees.

## **8. Hearing Conduct**

All official public hearings will be conducted by a member of the Utah Transportation Commission, his representative, normally the UDOT Community Involvement Officer, or by a local official in conjunction with the project team.

The hearing will be conducted impartially. A copy of the environmental document will be available for public review at the hearing. The following information will be discussed or provided:

- The project's purpose and need

- Consistency with the current Transportation Improvement Plan, Regional Transportation Plan, or Metropolitan Transportation Plan as applicable
- Alternatives and major design features
- Social, economic, environmental, and other impacts
- Proposed mitigation measures
- Right-of-way acquisition and/or relocation assistance
- Procedures for receiving oral and written statements
- Coordination with other agencies

## **9. Comment Period**

In addition to commenting at the hearing, the public will have the opportunity to comment on the project during a designated comment period. This comment period is generally advertised in conjunction with the notice of a public hearing or an opportunity for a public hearing. For a Draft EIS, the minimum comment period is 45 days. For a Final EIS, an EA or a State Environmental Study (SES), the minimum comment period is 30 days. For categorical exclusions and documented categorical exclusions, the minimum comment period is 10 days following the hearing; if the tenth day following the hearing falls on a Sunday or holiday, an additional day shall be added. The advertisement will include information on what day the comment period begins (typically the day of the first advertisement), the day that the comment period ends, the locations where the document can be reviewed, and how comments can be submitted.

The [Management of NEPA Public Comments](#) guidance provides privacy disclaimers to be included on comment platforms for formal and informal comment periods.

## **10. Transcripts of Hearing Proceedings**

All public hearings will be transcribed. When a formal meeting type of hearing is held, a verbatim record of the hearing proceedings will be included in the transcript. When an open forum type of hearing is held, a record of individual statements, both written and oral as made to the designated recorder by attendees, will be included in the transcript. For more information on hearing transcripts, see Section 4.6(C).

## **B. Project-Level Requirements for Environmental Studies**

### **1. Categorical Exclusions (CE)**

For projects that require a CE, a public hearing or an opportunity for a public hearing is only provided if such a hearing is required by 23 CFR 771.111(h)(2)(iii), or on projects for which UDOT determines that a public hearing would be in the public interest. Briefly, this section says that a public hearing or an opportunity for a public hearing will be provided if the proposed project is on a new location; if the project would have a substantially

different social, economic, or environmental effect than the existing facility; or if the project would change the layout or function of connecting roads or streets.

- Contact all interested agencies, communities, special-interest groups, and other stakeholders and advise them of the scope of the proposed project. Obtain comments and recommendations from all stakeholders. Consider all comments and recommendations in the decision-making process. Continued stakeholder involvement is required throughout the decision-making process.
- The CE Environmental Study does not need to be circulated for comment, but the document must be made available for public review at the applicant's office and can be made available at other locations as decided by the project team.

## **2. Environmental Assessments (EA)**

Pursuant to 23 CFR 771.111(h)(2)(iii), a public hearing is held or an opportunity for public hearing is provided for an EA when the project requires substantial amounts of right-of-way, substantially changes the layout or function of connecting roads or of the facility being improved, or has a substantial adverse impact on abutting property, or if UDOT determines that a public hearing is in the public interest. An informational meeting can be held at UDOT's discretion.

Consult with Central Environmental and contact all interested agencies, communities, special-interest groups, and other stakeholders and advise them of the scope of the proposed project. Comments and recommendations should be solicited from all stakeholders and considered in the decision-making process. Continued stakeholder involvement is required throughout the decision-making process.

The draft EA will be submitted to Central Environmental for its review and for approval prior to the public hearing.

The draft EA does not need to be circulated for comment, but a notice of availability in local, state, or regional clearinghouses, newspapers, and other means must be issued. The EA's availability and comment period are advertised using the same process as the notification for an opportunity for public hearing. The document must be made available for public review at the UDOT Region and Central offices.

If no significant impacts are identified, submit copies of the EA, the public hearing transcript, comments received, and responses to comments to Central Environmental along with a recommendation for the proposed action.

### **a. Finding of No Significant Impact (FONSI)**

After Central Environmental reviews the EA and any public hearing or meeting comments or other statements received, Central Environmental or their designee can

either prepare a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents or decide that an EIS is necessary.

When UDOT expects to issue a FONSI for an FHWA project that would normally require an EIS, an NOA will be prepared and published, and the final EA must be made available for public review for a minimum of 30 days before issuance of the FONSI (23 CFR 771.119). Projects that would normally require an EIS are defined in 23 CFR 771.115(a) and Section 3.3(E).

When UDOT makes a FONSI, UDOT will issue a NOA of the FONSI in accordance with 23 CFR 771.121. UDOT will send the NOA to the affected units of federal, state, and local government, and the document will be available from UDOT on request by the public. UDOT will also send notice to the state intergovernmental review contacts established under Executive Order 12372.

If UDOT finds that an EIS is necessary, then the process follows the procedures in Section 4.5(B)(4).

### **3. State Environmental Studies (SES)**

For projects constructed entirely with state or non-federal-aid funds, prepare environmental documentation to determine the extent of environmental impacts using the environmental project classifications in Chapter 3, Environmental Documentation – Description and Process Steps, of this manual as guidelines. On these projects, public involvement efforts should be commensurate with the project type and scope and be consistent with [Utah Administrative Code R930-2](#).

### **4. Environmental Impact Statements (EIS)**

#### **a. SAFETEA-LU Required Elements**

##### **1) Description**

[Section 6002 of SAFETEA-LU](#), Efficient Environmental Reviews for Project Decision-Making, prescribed an environmental review process for highway, public transportation capital, and multimodal projects. The review process is mandatory for projects that involve the preparation of an EIS but is optional for EA-level projects. [MAP-21](#) includes additional streamlining and efficiency measures to the environmental review process.

##### **2) Participating Agencies**

The environmental process described in SAFETEA-LU specifies a category of agencies to be invited to participate in the NEPA process within a 45-day maximum timeframe after the Notice of Intent as required by the FAST Act. Participating agencies can include federal, regional, state, local, or tribal agencies that can reasonably be expected to have

an interest in a project but would not include nongovernmental agencies or private groups.

Lead agencies are required to invite any agency that “may have an interest in the project” to be a participating agency. Upon being invited, a federal agency is automatically designated as a participating agency unless it declines the invitation. Non-federal agencies are designated as participating agencies only if they accept the lead agencies’ invitation.

### 3) Opportunities for Involvement in Purpose and Need and Alternatives

The process also requires an “opportunity for involvement” for participating agencies and the public in defining the project’s purpose and need and the range of alternatives to be evaluated. These opportunities can occur early in the transportation planning process or later, during the early coordination and EIS scoping process. The opportunities must be widely publicized using public workshops or meetings, solicitations of verbal or written input, conference calls, postings on websites, distribution of printed materials, or other public involvement techniques. The opportunity to participate in defining the project’s purpose and need must be provided before the lead agencies’ final decision regarding the purpose and need, and the opportunity to participate in defining the range of alternatives must be provided before the lead agencies’ final decision regarding the range of reasonable alternatives to be evaluated.

Under SAFETEA-LU’s environmental review process, cooperating and participating agencies must be given the opportunity to provide input into the methodologies and level of detail to be used in the analysis of alternatives. This can be accomplished on a project-by-project basis, in a programmatic way, or on a regional basis. UDOT’s public and agency participating requirements of SAFETEA-LU would be used to develop a project-specific public and agency involvement plan.

### 4) Coordination Plan

SAFETEA-LU also requires the establishment of a plan for coordinating public and agency participation and comments during the environmental review process. Coordination plans are developed early in the environmental review process. They should outline how UDOT will handle the responsibilities for complying with the various aspects of the environmental review process and how opportunities for input from the public and other agencies will be provided. The plan should also identify key coordination points such as:

- Publication of the NOI
- Scoping activities
- Development of the purpose and need
- Identification of the range of alternatives
- Collaboration on impact assessment methodologies

- Completion of the DEIS
- Identification of the preferred alternative and level of design detail
- Completion of the FEIS
- Completion of the ROD
- Completion of permits, licenses, or approvals after the ROD

5) Negotiated Schedules

SAFETEA-LU had previously encouraged, but did not require, a project schedule to be included in the coordination plan. The FAST Act revised the required components of the coordination plan and requires lead agencies to establish project schedules for the completion of the environmental review processes for all EIS and EA projects after consultation with and the concurrence of each participating agency for the project. The FAST Act also requires concurrence of participating agencies for changes to project schedules. The schedule should include review and comment periods and deadlines as well as decision-making deadlines for each agency approval, such as permits, licenses, and other final decisions consistent with statutory and regulatory requirements.

6) Resolving Issues of Concern

The lead agencies, cooperating agencies, and participating agencies work cooperatively to identify and resolve any issues that can delay completion of the process or result in the denial of needed approvals. The lead agencies make information available to the cooperating and participating agencies as early as practicable regarding the environmental and socioeconomic resources in the project area and the general locations of the alternatives under consideration. This information can be based on existing data sources.

Based on information provided by the lead agencies, the cooperating and participating agencies identify any issues of concern, which are defined as issues that “could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.” If requested by the project sponsor or the governor, the lead agencies convene a meeting to resolve any issues of concern that have been identified. The meeting must include the relevant cooperating and participating agencies, the project sponsor, and the lead agencies as well as the governor if the governor requested the meeting. If the issue is not resolved in 30 days after the issue resolution meeting has been held and the lead agencies have determined that all information needed to resolve the issue has been obtained, the federal lead agency, or UDOT if assuming the lead agency under the 327 NEPA Assignment MOU, publishes a notice in the *Federal Register*.

## 7) Limits on Claims

Section 6002(a) of SAFETEA-LU includes a provision limiting the time period for filing claims that challenge permits, licenses, or approvals issued by federal agencies for a highway or public transportation capital project. MAP-21 reduces the maximum statute of limitations period to 150 days (previously limited to 180 days). The limitation period applies to a permit, license, or approval decision by a federal agency if:

- The decision relates to a highway or public transportation capital project, and
- A notice is published in the *Federal Register* announcing that federal agencies have taken action that is final under the federal law pursuant to which the action was taken.

If no notice is published, the period for filing claims is not shortened from what is provided by other parts of federal law. If other federal laws do not specify a statute of limitations, then a six-year claims period applies. It is the intent of UDOT to issue notices on all FONSI and ROD documents.

This provision is intended to expedite the resolution of issues that affect transportation projects and should be included in the NEPA document to help stakeholders and the public understand the provision. Section 1306 of MAP-21 replaces the language previously included in SAFETEA-LU regarding issue resolution with three distinct processes: 1) accelerate interim decision-making prior to the issuance of a record of decision; 2) revised issue resolution and referral process; and 3) penalties to federal agencies for not making decisions within prescribed timelines. USDOT will be developing guidance to address these changes.

### b. Draft Environmental Impact Statement (DEIS) Process

1. Submit an NOI to be published in the *Federal Register*. Announce scoping meetings to be held.
2. Develop the Coordination Plan for the project and submit it to the Environmental Program Manager.
3. Send out letters to prospective cooperating agencies and participating agencies. Update the Coordination Plan based on responses from cooperating and participating agencies.
4. Conduct project scoping. Identify the range of alternatives, impacts, and significant issues. Include the public as well as all affected agencies.
5. Hold information meetings with affected stakeholders as needed throughout the process.
6. Submit pre-draft copies of the DEIS to Central Environmental for their review and for the pre-legal sufficiency review. Incorporate all substantive comments.

7. Central Environmental will coordinate with the EPA to publish a Notice of Availability in the *Federal Register* and work with the project team to release the DEIS to the public and to hold the public hearing event. Environmental Services will publish an announcement of availability of the DEIS in the local and state newspapers.
8. Allow a public review period of a minimum of 45 days following the announcement in the *Federal Register*. SAFETEA-LU mandates that the DEIS comment period not exceed 60 days, unless a different comment period is established by agreement of the lead agencies, the project sponsor, and all participating agencies
9. Hold the public hearing event no earlier than 15 days after the announcement of the DEIS in the *Federal Register*.

**c. Combined Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) Process**

Note that the process described in this section is for a combined FEIS and ROD, which is the default method per the MAP-21 guidance. If the EIS has a separate FEIS and ROD, the review and approval process is similar for both the FEIS and ROD, but a 30-day review period is required between the FEIS and ROD and any new comments received on the FEIS are included along with responses to the comments in the ROD.

1. Prepare the FEIS and ROD.
  - a. In the FEIS, summarize public involvement efforts, include comments provided during the DEIS review period and provide responses, and describe mitigation measures.
  - b. In the ROD, present the basis for the decision, summarize mitigation commitments, and document Section 4(f) approvals.
2. Submit the FEIS and ROD to Central Environmental for review.
3. UDOT Legal Counsel will perform a legal sufficiency review of the FEIS and ROD prior to UDOT approval. UDOT will complete and sign the combined FEIS and ROD no sooner than 90 days after the publication of the NOA for the DEIS.
4. Send a copy of the FEIS and ROD to those persons, agencies, and groups that received a copy of the DEIS, those who made substantive comments, and those who requested a copy.
5. Central Environmental will coordinate with the EPA to publish an announcement of availability (NOA) of the FEIS and ROD in the *Federal Register*. Environmental Services will publish an announcement of availability of the FEIS in the local and state newspapers.

## **5. Re-evaluations of Environmental Documents and Supplemental Environmental Studies**

When performing a re-evaluation of an environmental study, it might be appropriate to involve stakeholders if substantial changes have occurred. These changes could include major design modifications, new alternatives being considered, new projected impacts, new information or issues identified, and so on. Coordination efforts with appropriate resource agencies, the general public, and other stakeholders might be necessary. These efforts could include informal meetings, public hearings, or other outreach activities as appropriate considering the changes in the project.

The CEQ regulations specify that a federal agency must prepare a supplemental EIS if there are substantial changes to the project or if there are significant new circumstances or new information relevant to environmental issues. The FHWA NEPA regulations, 23 CFR 771.129, set forth the requirements and a timeframe for written evaluations of EISs and for consultation procedures for all types of NEPA documentation, including CEs, Findings of No Significant Impact, and Draft, Final, and Supplemental Environmental Impact Statements (SEIS).

Historically, the term “re-evaluation” has been used generically to refer both to the process and to the document produced under 23 CFR 771.129. While most of the time the meaning is understood, this mixed use of the term has led to some misunderstandings about which types of NEPA documentation need to be re-assessed and when. Consultation applies to all NEPA documentation (23 CFR 771.129(c)), whereas a written evaluation, with its three-year timeframe, applies only to an EIS (23 CFR 771.129(a) and (b)). Consider the following processes when developing a supplemental environmental study:

- If supplementing the DEIS, the process includes a public comment period and a hearing and includes the same requirements as the DEIS.
- If supplementing the FEIS, the process includes an NOA and includes the same requirements as the FEIS.
- If supplementing a ROD, the process includes the same steps as the ROD.

### **C. Public Involvement in the Construction Phase**

Public involvement activities continue during the construction phase of a project. Construction projects are announced to the public through press releases distributed to newspapers and television stations and to neighborhood newspapers or newsletters.

On small projects with limited impacts to stakeholders, public involvement might consist of press releases along with an advisory flyer passed out to residences and businesses adjacent to the roadway just before the beginning of construction in the area.

On larger projects that affect many businesses or run through dense residential areas, UDOT often contracts with Public Involvement Managers (PIMs) who work directly with the construction contractor and the public to keep the public informed about project schedules and activities and to troubleshoot stakeholder issues. Special public involvement activities during construction could include a Meet the Contractor event where stakeholders can get to know and speak with the contractor one-on-one, neighborhood gatherings to mark the beginning of a new construction phase, and information booths at community events. To keep the public informed, PIMs can use flyers, newsletters, websites, email updates, and personal or small-group meetings. Very large or sensitive projects might also include a community coordination team made up of stakeholders from the project area who act as information liaisons to the affected neighborhoods.

## 4.6 Public Involvement Documentation Procedures

### A. Describing Public Involvement Efforts in Environmental Documents

In EISs, EAs, and sometimes CEs, there is a chapter titled Comments and Coordination. This chapter describes the early and ongoing coordination activities; summarizes key issues and pertinent information received from the public, agencies, and other stakeholders; and lists those agencies and persons that were consulted.

### B. Addressing Comments

Provide responses for all comments received at public hearings and during the public comment period. Table 4-1 describes the how and where comments are incorporated.

**Table 4-1. Incorporating Comments**

Document Type	How Comment Is Incorporated	Comments Are Incorporated Where?
DEIS	Responses are provided for all comments received.	The comments and responses are included in the FEIS.
FEIS*	Responses are provided for all comments received.	Any new substantive comments not addressed in the FEIS are included in the ROD.
EA	Responses are provided for all comments received.	The comments and responses are included in the EA with the FONSI.
CE	Responses are provided for all comments received.	The comments and responses are included in the CE.
SES	Responses are provided for all comments received.	The comments and responses are included in the SES.

\*This only applies if the FEIS and ROD are separate. For a project with a combined FEIS and ROD, this will not apply.

Comments can be responded to in a variety of ways, depending on the nature of the comment. Table 4-2 below describes various types of responses.

**Table 4-2. Addressing Comments**

Comment Type	Response Type	Additional Studies Required?
Statement of preference	Acknowledge receipt of comment.	None
Questions about process	Provide explanation of process and refer to appropriate section of the document for additional information.	None
Questions about analysis	Provide explanation and rationale for analysis techniques and results. Refer to appropriate section of the document for additional information.	None
Request for additional information	Provide additional information.	Additional tasks or analysis might need to be performed.
General statement about the project or document	Document receipt of comment.	None

For EAs and EISs, Central Environmental reviews the responses to comments. For other projects, the project team approves the responses. If additional information or analysis is requested, the project team works with Central Environmental to determine what additional tasks or analysis might need to be performed and if the document might require a supplement.

## **1. Organization of Comments and Responses in Documents**

There are a variety of ways to organize comments and responses. The goal is to provide a clear way for readers to see the comments and quickly locate the appropriate responses. Copies of all comments received during the comment period, including transcripts from public hearings, are included in the next version of the document or in the project file. For example, comments received on a DEIS will be incorporated in the FEIS. All of the comments and their responses can be included in the Comments and Coordination chapter of the document, or they can be summarized in the chapter and included in their entirety in an appendix.

## **2. Redaction of Personal Information**

Any personal information submitted by a commenter, whether on a comment form or within the comment text, should be redacted prior to publication and/or distribution of the environmental document. Redactions should include addresses, phone numbers, and e-mail addresses.

## **C. Public Hearing Transcripts**

All public hearings will be transcribed. When a formal-meeting public hearing is held, a verbatim record of the hearing proceedings will be included in the transcript. When an open-forum public hearing is held, a record of individual statements, both written and oral as made to the designated recorder by attendees, will be included in the transcript. Verbal statements received at the hearing will be converted to a printed transcript. This transcript will be distributed to appropriate federal, state, and local government officials and UDOT staff along with appropriate illustrations handed out at the hearing (if any) and written comments received from the time the hearing was first advertised to a postmark deadline at least 10 days following the hearing.

The project team can restrict written comments to those that are 8½ inches by 11 inches and that can be reproduced on a standard photocopy machine.

The project team can extend the deadline for submitting written comments if it decides there is an appropriate reason.

Public hearing summary to be included in the final environmental document will contain the following elements:

- Copy of the legal ad and display ad.
- Proof of Publication copy of the legal ad as it appeared in all newspapers in which it was printed.
- Project illustrations handed out at the hearing.
- Transcript prepared by the court reporter.
- Written comments submitted at the hearing and comments mailed during the 30-day comment period.
- Responses to the public comments.

## 4.7 Other Public Involvement Tools and Techniques

### A. General Stakeholder Meetings and Scoping Meetings

Meetings present information to the public and resource agencies and provide an opportunity to obtain stakeholder input. They are used to disseminate information, provide a setting for discussion, and get feedback from interested parties. They can be tailored to specific community and agency needs and can be either formal or informal. Unlike a public hearing, there are no formal requirements for advertising and holding various types of meetings.

### B. Corridor Signing

Post signs in or near the project corridor. Signs should provide project-related information to the surrounding community. They can provide information on upcoming meetings and hearings and typically have project contact information.

### C. Mailings, Flyers, and Surveys

Project information is often mailed to potentially affected stakeholders to communicate project status, announce public meetings, receive public input, and keep affected stakeholders involved in the project development process.

### D. Project Websites and Email Lists

Project-specific websites and email lists help to quickly distribute current information on proposed projects.

### E. News Releases

Press releases distributed by the Community Relations Office help to distribute project information to local as well as statewide audiences.

### F. Online Interactive Tools

Online interactive tools may include social media, online interactive maps, website comment forms, and crowd sourcing platforms. UDOT has published the following guidance for the implementation and management of online tools:

- [Use of Social Media Guidelines and Practices](#) includes:
  - Social Media Policy
  - Best Practices and Guidelines for UDOT Social Media Accounts

- Content Development and Management Policy for UDOT Consultants Managing/Contributing to UDOT Social Media Channels
- [Management of NEPA Public Comments](#) includes:
  - Formal and Informal Comment Management
  - Online Interactive Tools for NEPA Projects